

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARK BRUMMITT,

Defendant.

ORDER

04-cr-127-bbc

Defendant Mark Brummitt has written to the court, asking for the issuance of an order to the United States Attorney to turn over to him a copy of a report showing the source of the CD-Roms allegedly possessed by defendant on October 27, 2003. He asks for release if the United States Attorney refuses to provide the report. Both requests will be denied.

Defendant has no case pending before this court. He pleaded guilty to possessing CD-Roms that had traveled in interstate commerce containing visual depictions of involving a minor engaged in sexually explicit conduct. He appealed his sentence successfully. The court of appeals ordered a remand for resentencing. His appeal from the new sentence was less successful; the court of appeals affirmed the sentence this court had imposed. He then

brought a motion for post conviction relief under 28 U.S.C. § 2255. The motion was denied in this court; the court of appeals affirmed the denial.

Defendant is prohibited by law from pursuing a second motion for post conviction relief unless he obtains advance approval from the court of appeals, which he has not done. With no case before the court and no realistic possibility of any, defendant has no grounds to seek an order from the court for production of a document. Indeed, once he entered his plea of guilty, he waived his right to object to the sufficiency of the evidence against him.

ORDER

IT IS ORDERED that defendant Mark Brummitt's requests for an order directing the production of proof of the origin of the CD-Roms he was charged with possessing and for an order of release from custody are DENIED.

Entered this 18th day of August, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge